

REMARKS

Claims 2-60 and 64 are now pending in this application, as original claims 1 and 61-63 have been canceled and claim 64 is now being added. Cancellation of any claim is intended to be without prejudice to the right of applicants to again present claims having the same subject matter, in this or a continuing application.

Claims 44-46 and 48-56 were described in the Office Action as being allowed, and will not be discussed further. The minor amendments made herein to these claims are considered to improve the presentation of their subject matter.

Claims 1-43, 47, and 57-60 were described on the Form PTOL-326 as being rejected. However, applicants cannot identify any rejection that mentions claim 47. Claims 1-44 were rejected under 35 U.S.C. § 112, first and second paragraphs; however, applicants are interpreting this rejection as pertaining only to claims 1-43, since claim 44 was described as being allowed.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1-43 and 57 were rejected under this statute.

Regarding claims 1-43, the rejection states that there is not enablement for all known sulfoxide compounds, and suggests that the compounds be limited. Applicants are substituting new claim 64 for original claim 1, and have moved the description of substituents for the sulfoxide molecule from the end of the claim to a more appropriate point following the structure. It is respectfully submitted that the sulfoxide compound was always limited by the substituent information, but the present claim structure provides more clarity; the rejection should be withdrawn since claims define a limited number of sulfoxide compounds.

Claim 57 was rejected as lacking "enablement by which amorphous esomeprazole produces a compound." However, this reflects a misunderstanding of the intended subject matter of the claim, which is the amorphous esomeprazole that is produced in claim 47. Claim 57 has been made more clear, and this rejection should now be withdrawn.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-43 and 58-60 were rejected under this statute.

The rejection of claims 1-43 is based on an inclusion of "substantially optically pure" and "optically enriched" in claim 1. Further the meaning of step d) in claim 1 was questioned.

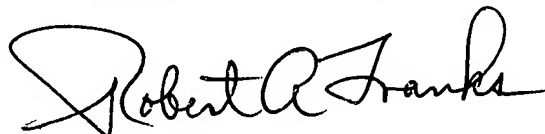
Applicants agree that "substantially optically pure" and "optically enriched" are relative terms, but cannot agree that they would be regarded as indefinite by a person having skill in the art. However, in order to advance prosecution, new independent claim 64 has been written to not include those terms. Applicants therefore urge withdrawal of this rejection.

The Office Action suggested an amendment to overcome the rejection of claims 58-60, and applicants have adopted that suggestion to advance prosecution, even though they do not agree that the amendment is necessary. One having skill in the art will not consider the possibility that a pharmaceutical composition might have a sub-therapeutically effective amount of a drug substance, so the recitation of a therapeutically effective amount is superfluous. In view of the amendment, this rejection should be withdrawn.

SUMMARY

Applicants believe that all of their pending claims are allowable, so an early notification of allowance is requested. Should any minor matters remain to be resolved before disposition of the application, please contact the undersigned by telephone or facsimile to arrange for a telephonic or personal interview.

Respectfully submitted,

A handwritten signature in black ink, reading "Robert A. Franks". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

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January 24, 2006

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